SASKATCHEWAN

FOIP FOLIO

June 2006

NEW PRIVACY/ACCESS FACES

Sherri Fowler is now working with Duane Mombourquette in the Access and Privacy Branch of Saskatchewan Justice. That branch was established in late 2005 to provide support to government and local authorities regarding access and privacy matters. Sherri will be well known to many of you in government from her service at the Departments of Justice and Corrections and Public Safety as the Freedom of Information and Protection of Privacy (FOIP) Coordinator. Her new contact information is as follows:

Consultant, Access and Privacy Branch
Saskatchewan Justice
10th Floor – 1874 Scarth Street
REGINA SK S4P 3V7
Phone: (306) 798-0446
Fax: (306) 798-4064
E-mail: sfowler@justice.gov.sk.ca

Trish Livingstone is the new Privacy Officer and Freedom of Information and Protection of Privacy (FOIP) Coordinator at Saskatchewan Health. Her number is (306) 787-2173.

We look forward to working with Sherri and Trish in our FOIP and Health Information Protection Act (HIPA) compliance efforts.

JOB OPPORTUNITY

Our office is holding an open competition for a term vacancy of **Manager of Administration** to replace Candace Malowany while she is on maternity leave for mid-September 2006 to mid-September 2007.

Reporting to the Commissioner, the Manager of Administration is responsible for managing all the administrative operations of the office, which includes a wide variety of budget/financial, administrative, facilities, human resource, information technology, procurement, communication and liaison functions. The qualifications include considerable directly related experience in budget preparation, human resources, procurement and communication functions. Several years of government experience and excellent skills in Microsoft Windows XP and Microsoft Office are essential. Experience in supervision, website maintenance and records retention and disposal would be an asset.

Please visit our website at http://www.oipc.sk.ca/whats_new.htm for a copy of the Employment Ad and the Position Summary/Responsibilities. You can also view the Ad in the Leader Post on June 24 and July 1, 2006. The closing date for applications is July 5, 2006.

AN AUSTRALIAN PERSPECTIVE ON FOI

Professor Rick Snell of the Faculty of Law, University of Tasmania, made a number of presentations on June 12-13, 2006 in Regina. This included meeting with our Office of the Information and Privacy Commissioner (OIPC) staff, a luncheon presentation to lawyers sponsored by the Saskatchewan Legal Education Society Inc. (SKLESI) and a presentation at the Saskatchewan Institute of Public Policy (SIPP). The SIPP session was recorded by Access TV and will be broadcast later in June. His message to lawyers was "*Six Steps in making Access to Information work for Lawyers (and everyone else !)*". This included a number of very practical tips to make the best use of access to information legislation. A copy of his PowerPoint slide deck is available from our office.

ALBERTA COMMISSIONER ON ACCESS

Professor Snell's comments on the importance of access to information are similar to the theme developed by Alberta Information and Privacy Commissioner Frank Work in his keynote address to the recent Access and Privacy Conference in Edmonton. Commissioner Work lists 7 compelling arguments in support of access. His speech can be accessed at www.oipc.ab.ca.

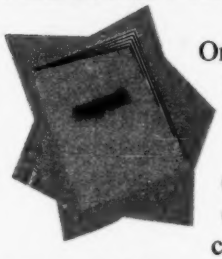
VICTORIA PRIVACY COMMISSIONER TO VISIT REGINA IN SEPTEMBER

Paul Chadwick, Privacy Commissioner for the State of Victoria in Australia intends to visit Regina in early September. Commissioner Chadwick has been a genuine international leader among privacy oversight officers. His office has pioneered a new approach to protecting privacy when it comes to public registries. Watch future issues of the FOLIO for more details on Commissioner Chadwick's visit. We hope to confirm Commissioner Chadwick will speak to the new Canadian Bar Association (CBA) Access and Privacy Law Section at its first meeting in September.

QUEBEC TO ADDRESS U.S. SURVEILLANCE RISK

The Quebec government has announced that it will follow steps taken by the Nova Scotia, British Columbia and Alberta governments to reduce the risk that personal information of Canadians can be disclosed to U.S. government agencies. The announced changes will require that a higher threshold must be met before personal information is shared outside of Quebec.

FEDERAL PRIVACY COMMISSIONER REPORTS



On May 30, 2006, Jennifer Stoddart, Privacy Commissioner of Canada tabled her 2005 Annual Report on the *Personal Information Protection and Electronic Documents Act* (PIPEDA). She has signaled her intention to undertake a larger number of audits and reviews to encourage greater compliance. Only 19% of the complaints made to that office in the last year were "not well founded". The majority of complaints to that office were of three types: use and disclosure (37%), access (20%) and collection (16%). The Commissioner commented on Radio Frequency Identification Tags, case investigations, privacy self-assessment and PIPEDA matters that have gone to court.

On June 5, 2006, Commissioner Stoddart tabled her report on the federal *Privacy Act*. The Report is entitled *Government Accountability for Personal Information: Reforming the Privacy Act*. This will be of interest in Saskatchewan since Part IV of our *Freedom of Information and Protection of Privacy Act* is modeled on the federal *Privacy Act*. The federal Commissioner describes the federal *Privacy Act* as "*outdated*" and argues that it means her office is "*virtually powerless to protect the privacy rights of Canadians relating to information collected, used and disclosed by the federal government.*" She states that the *Privacy Act* is "*urgently in need of modernization to address trans-border data flows. The Act should contain specific wording to define the responsibilities of those who transfer personal information outside the federal public sector into other jurisdictions and to address the issue of adequacy of protection in those jurisdictions.*" Commissioner Stoddart also advises that the federal Act is "*inadequate in its treatment of a government institution's duties when it discloses personal information without the consent of the individual to whom it relates. Wherever possible, there should be a corresponding duty on the institution to inform the individual about the disclosure.*" She also urges that sanctions should be included in the *Privacy Act* for destroying, or altering or falsifying or concealing a record. Just like our Saskatchewan legislation, the federal Act has no such provision currently. The Commissioner also suggests that personal information should be released from government registries only in ways and for purposes consistent with the purpose for which the register is maintained. A similar change would be very helpful in our Saskatchewan laws.

Several of Commissioner Stoddart's suggestions for reform are similar to proposals in our last 2004-2005 Annual Report – *Privacy and Access - A Saskatchewan 'Roadmap' for Action*. That Report is available at our website: www.oipc.sk.ca under the "Annual Reports" tab.

Both of these federal Annual Reports are available at www.privcom.gc.ca.

PRE-EMPLOYMENT DRUG SCREENING

The Alberta Court of Queen's Bench dealt for the first time with pre-employment drug testing in the workplace in Alberta (Human Rights and Citizenship Commission) v. Kellogg Brown & Root (Canada) Company, 2006 AB Q.B. 302, May 11, 2006. You can access this interesting decision online at www.albertacourts.ab.ca/jdb/2003-/qb/civil/2006/2006abqb0302.cor1.pdf.

NEW CBA ACCESS AND PRIVACY LAW SECTION

The new Saskatchewan Access and Privacy Law Section is now officially launched! The Chairperson is Mark Anderson (Provincial Auditor office) and the Vice Chair is Brad Vance (MacPherson Leslie Tyerman LLP). The Saskatchewan Section Chair is automatically a member of the Executive Committee of the National Privacy and Access Law Section. More details on the meetings and speakers scheduled for the September – April term will be available in the Canadian Bar Association (CBA) Handbook distributed later this summer. Meetings will alternate between Regina and Saskatoon. Please note that although CBA Sections usually consist only of lawyers who are members of the CBA in Saskatchewan, this section will also welcome non-lawyers who are Privacy Officers, Freedom of Information and Protection of Privacy (FOIP) or Health Information and Privacy Act (HIPA) Coordinators and other access and privacy professionals. We expect this will promote a much richer discussion of new developments in this fast changing environment. The Section meets at noon for lunch 5 or 6 times each year. To register for the section, call 1-800-424-8288 or email: cba.sk@sasktel.net. More details are also available at http://www.cba.org/Saskatchewan.

SIPP NEW RELEASE

The Saskatchewan Institute of Public Policy (SIPP) has just published Public Policy Paper #43- *The Difficulty in Establishing Privacy Rights in the Face of Public Policy from Nowhere* by University of Regina Professor Bill Bonner. You can access this paper at www.uregina.ca/sipp/. Professor Bonner discusses the practice of the Saskatchewan Automobile Injury Appeal Commission in publishing full text decisions indexed by the name of the individual. This practice was criticized in OIPC Investigation Report 2005-002. He also considers the practice in Saskatchewan and Alberta in selling personal motor vehicle registration information. Professor Bonner asserts that the continued existence of these practices is counter-intuitive, given the volume and variety of privacy legislation passed in the last two decades.

ANNUAL REPORT OF INFORMATION COMMISSIONER

Federal Information Commissioner John Reid has issued his Annual Report for 2005-2006. This Report touches on a number of recurring themes including delays, funding, and possible merger of the offices of the Privacy Commissioner and the Information Commissioner. You can also find a series of 'report cards' on federal government institutions' 'performance' in responding to access requests. This can be accessed at www.infocom.gc.ca.

INFILTRATING THE OIPC

(by the way, have you seen the big server they have there?)

My name is Chrystal and I am an articling student at the City of Regina. For one week this June, Gary, Diane, Sandra and Candace have graciously accepted me as a guest at the OIPC. During my time here I learned a lot about access to information and privacy issues. The OIPC has succeeded in stimulating a healthy sense of paranoia in my life, at work and at home. As an employee of the City of Regina, my work life falls under The Local Authority Freedom of Information and Protection of Privacy (LA FOIP) Act, as consumers and citizens, our personal information is being collected at every turn (even when you stop in Chamberlain to use the washroom). Besides becoming a conspiracy theorist, I also learned about the rights citizens have to access records of the government and local authorities. The most important thing I learned this week is how knowledgeable and approachable the people at the OIPC are, and how concerned they are about access to records and privacy (apparently I need one of those big servers to be safe).

RIGHT TO KNOW WEEK (SEPTEMBER 25 – 29, 2006)

Plans are underway to celebrate 'Right to Know Week' September 25 to 29 in Saskatchewan. September 28 is internationally recognized as 'Right to Know Day'. The Saskatchewan Steering Committee includes representatives of the Regina Public Library, Saskatchewan Government Employees Union, Canadian Taxpayers Federation, Canadian Bar Association Access and Privacy Law Section, Saskatchewan Institute of Public Policy and the Office of the Saskatchewan Information and Privacy Commissioner. The Saskatchewan activities will parallel similar activities in other Canadian provinces and at the federal level. There will be a Right to Know website that will have information on all activities that will take place across Canada this September. In Saskatchewan there will be an essay contest for high school students and another essay contest for university students. There will be panel discussions in both Regina and Saskatoon and a public presentation by a nationally recognized advocate for freedom of information. You can find more details on various events throughout that week in future issues of the FOIP FOLIO.

A CHANCE FOR TRANSPARENCY

A timely submission from the British Columbia Freedom of Information and Privacy Association to the federal committee considering Bill C-2, *The Federal Accountability Act* is worth reading. This document – *A Chance for Transparency: The Federal Accountability Act and public access to information* is dated May 2006 and is available at www.fipa.bc.ca.

FUTURE EVENTS

July 11-13, 2006 -- *Preventing Fraud in the Public Sector* presented by International Quality & Productivity Centre at Albert at Bay Suite Hotel, Ottawa, ON. To register contact 1-800-882-8684 or email: annie.obrien@iqpc.com. (visit www.iqpc.com for details)

September 11, 2006 -- Saskatchewan Access and Privacy Law Section – Regina, Hotel Saskatchewan. Noon Luncheon. To register, call 1-800-424-8288 or email: cba.sk@sasktel.net. (visit http://www.cba.org/Saskatchewan for details)

September 18-20, 2006 -- *Information Management in the Public Sector*, Ottawa, ON. To register contact 1-800-363-0722 or e-mail info@federatedpress.com (visit http://w1.federatedpress.com for details)

September 25-29, 2006 -- Right to Know Week (Regina and Saskatoon). Program details for the week to be announced at a later date.

HAVE A GREAT SUMMER!

TO CONTACT US:

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